United States Court of Appeals

for the Second Circuit

BRIEF FOR APPELLEE

76-1196

To be argued by
CONSTANCE CUSHMAN

United States Court of Appeals

FOR THE SECOND CIRCUIT

Docket No. 76-1196

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P/S

UNITED STATES OF AMERICA,
Appellee,

—v.—

MOHENDRA PARTABJI BUDHU,
Defendant-Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

BRIEF FOR THE UNITED STATES OF AMERICA

UNITED STATES COURT OF APPEALS
JUL 23 1976

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United States Court of Appeals

FOR THE SECOND CIRCUIT

Docket No. 76-1196

UNITED STATES OF AMERICA,

Appellee,

—v.—

MOHENDRA PARTABJI BUDHU,

Defendant-Appellant.

BRIEF FOR THE UNITED STATES OF AMERICA

Preliminary Statement

Mohendra Partabji Budhu, a citizen of Guyana, appeals from a judgment of conviction entered on April 16, 1976, in the United States District Court for the Southern District of New York, after a three day trial before the Honorable Constance B. Motley, United States District Judge, and a jury.

Indictment 75 Cr. 1220, filed December 18, 1975, charged Budhu in Count I with making a false writing and document in a matter within the jurisdiction of the Immigration and Naturalization Service ("I.N.S.") in violation of 18 U.S.C. § 1001; in Count II with falsely representing himself to be a United States citizen in violation of 18 U.S.C. § 911; and in Count III, with entering

the United States while an alien at a place other than as designated by immigration officers, in violation of 8 U.S.C. § 1325.

Trial commenced on March 8, 1976. On March 10, 1976 the jury convicted Budhu on all three counts.

On April 16, 1976, Judge Motley sentenced Budhu, who had been incarcerated * from the time of his arrest on November 17, 1975, to time served on all three counts. Upon imposition of sentence I.N.S. again took him into custody, and on May 26, 1976, Budhu was deported to Guyana.

Budhu, in this appeal, challenges only his conviction on Count III.

Statement of Facts

The Government's Case

Count I charged Budhu with falsely and knowingly claiming, on an Application to File a Petition for Naturalization, that he had served in the United States Army and had been honorably discharged. William Strasser, a hearing examiner with I.N.S., testified that Budhu had filled out and submitted the application (GX 1)** to him, and that he had reviewed with Budhu each item of information. On line 20 of GX 1 was an entry relating to military service, wherein Mr. Budhu stated that he had served in the United States Army from Jan-

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* Budhu was held first in the I.N.S. Detention Center for deportation as an illegal alien, and on December 11, 1975, after a complaint was filed in this case, was lodged in the Metropolitan Correction Center.

** Citations to "GX" refer to Government's Exhibits admitted at trial; citations to "Tr." refer to pages in the official transcript of the trial.

uary 18, 1968 to January 1, 1970 and had been honorably discharged. Mr. Strasser also testified that certain application procedures and requirements for naturalization were less stringent for aliens who had so served and been honorably discharged, and pointed out portions of the application forms (GX 1 and 1A) that indicated that Budhu received these benefits as a result of this claim. Strasser identified GX 1B as a DD214, or official certificate of discharge from the Army, that Budhu submitted to him in connection with his application. (Tr. 39-52).

Manuel Vargas, a detention officer at the I.N.S. Detention Center, identified GX 7A and GX 7B as DD214 forms in the name of Bernie Barbosa and Mohendra Budhu that were taken, pursuant to I.N.S. regulation, after Budhu's arrest, at a time when he was claiming to be Bernie Barbosa. The two forms were apparent photocopies one of the other, and, in fact, were both obvious forgeries, with variations only in the names, signatures and a few identifying numbers. The DD214 in the name of Budhu was identical to that submitted to Strasser. (Tr. 182-184).

James R. Peterson, an Army officer with the Military Personnel Record Center and the General Services Administration Record Center, testified at length about an exhaustive search of existing military records, which showed no record of Mohendra Partabji Budhu having ever served in the military. He also testified that had Budhu served in the Army, there would have been some record at some record storage center of his having so served. (Tr. 53-68).

Count II charged Budhu with falsely representing, on an application for employment as a guard at the Charles C. Mandel Security Bureau, Inc., that he was a citizen

of the United States. Richard F. Kovarik, an employee of that Bureau, described the application procedures, which included interviewing, fingerprinting and photographing all applications. He stated that a sign prominently displayed in the application area notified all applicants that aliens must present their Alien Identification Card (or "green card") with their application. (Tr. 133-141). Another Mandel employee, Francis X. Foy, identified GX 3, Budhu's application, as one which he had processed and reviewed with Budhu. On GX 3 was a representation that Budhu was a United States citizen. (Tr. 173-177).

Count III charged Budhu with entering the country at a place other than as designated by Immigration officials. Robert Walsh, a Criminal Investigator with I.N.S., testified concerning the circumstances of Budhu's arrest in Manhattan, New York, and described the documentation and recordkeeping procedures of I.N.S. as they related to the entry of aliens into the United States. He testified that I.N.S. maintains records of all aliens who enter the country at places as designated by I.N.S., with the exception only of Mexican or Canadian citizens who enter on the authority of "border crossing cards" which are valid for one day's journey in an area up to 25 miles from the border. (Tr. 151-161). GX 5, a self-authenticating document, certified that a thorough search of I.N.S. records revealed no record of lawful entry into the United States for Mohendra Partabji Budhu under that name or under Bernie Barbosa, the name he was using at the time of his arrest.

The Defense Case

Thomas Catlow, who had worked as a Veteran Military Counselor, testified that upon occasion veterans of the Army had difficulty or were unable to obtain official

records of their military service, although they were able to establish the fact of that service by independent evidence. He testified that in his experience such records had been lost or destroyed and were thus unavailable. (Tr. 254-265). From this the defendant argued that the absence of a record of Budhu's military service did not establish that he had falsely claimed to have served in the Army. This was the sole testimony presented by the defendant.

ARGUMENT

POINT I

This Court should decline to review Budhu's conviction on Count III, where the convictions on Counts I and II are wholly unchallenged on appeal.

Budhu raises no challenge to the validity of the felony convictions on Counts I and II, and indeed, his brief does not even discuss the evidence that related to those counts. His sole attack is upon the misdemeanor conviction on Count III. The evidence as to Counts I and II was completely distinct from that relating to Count III, and fully supported the convictions as to those counts. There is no showing that the evidence introduced as to Count III * was in any way considered by the jury or by the judge in relation to Counts I and II. Nor will Budhu sustain adverse collateral consequences of a kind the Courts would consider as a result of its decision not to review Count III. Accordingly, this is an appropriate case for the Court's invoking the concurrent sentence doctrine.

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* The evidence addressed to Count III was limited indeed. It consisted of proof that Budhu had been arrested in the Southern District of New York, a certificate that he had never entered the United States in compliance with I.N.S. regulations, and testimony concerning the recordkeeping procedures of I.N.S.

Benton v. *Maryland*, 395 U.S. 784 (1969), established that while an appellate court had jurisdiction to review the validity of less than all the convictions resulting from a multi-count trial when concurrent sentences had been imposed, it had discretion to decline to exercise that jurisdiction in an appropriate case. *Id.* at 787-791. Both the Supreme Court and this Circuit have declined to review convictions on one count in cases where the convictions on other counts were proper and concurrent sentences have been imposed. *Barnes* v. *United States*, 412 U.S. 837, 848 n.16 (1973); *United States* v. *Cioffi*, 487 F.2d 492, 498 (2d Cir. 1973), *cert. denied, sub nom., Cuizio* v. *United States*, 416 U.S. 995 (1974); *United States* v. *Gaines*, 460 F.2d 176 (2d Cir.), *cert. denied*, 409 U.S. 883 (1972); *United States* v. *Adcock*, 447 F.2d 1337, 1339 (2d Cir.), *cert. denied*, 404 U.S. 939 (1971); *United States* v. *Cilenti*, 425 F.2d 683 (2d Cir. 1970); *United States* v. *Febre*, 425 F.2d 107 (2d Cir.), *cert. denied*, 400 U.S. 849 (1970); *United States ex rel. Weems* v. *Follette*, 414 F.2d 417 (2d Cir. 1969) (collateral attack), *cert. denied*, 397 U.S. 950 (1970).

In this case, it is extremely unlikely that the jury considered the evidence as to Count III as probative either of Budhu's false statement on a naturalization application or of his false claim to be a United States citizen on a job application. Even were the jury to have considered that evidence, as, for example, tending to establish motive to commit the offense charged in Count II, it was relevant and independently admissible on that Count. Budhu's challenge is not to the admissibility of the evidence as to Count III, but rather to its sufficiency and to venue. Accordingly, there can be no impermissible "spillover" effect from one count to the concededly valid counts, which might persuade the Court to decline to invoke the concurrent sentence doctrine. *See United States* v. *Sperling*, 506 F.2d 1323, 1342 (1974), *cert. denied*, 420 U.S. 962

(1975); *United States* v. *Tyler*, 505 F.2d 1329, 1333 (5th Cir. 1975); *United States* v. *Polizzi*, 500 F.2d 856, 897, n.1 (9th Cir. 1974), *cert. denied*, 419 U.S. 1120 (1975); *Gaines*, *supra*, at 114; *Adcock*, *supra*, at 1339.

Furthermore, there are no collateral consequences, such as cited in cases where courts have not invoked the concurrent sentence doctrine,* that conceivably might affect Budhu as a result of the Court's declining to review Count III. Budhu was sentenced to time served on each of the three counts, and was promptly deported. As a result of his convictions on Counts I and II, 8 U.S.C. §§ 1182(a)(9) and (19) now mandate his permanent exclusion from the United States, making him ineligible to receive a visa. It is true that a violation of 8 U.S.C. § 1325 is a misdemeanor as a first offense, while as a second offense it is a felony. Should Budhu once again enter the country illegally, be apprehended, tried and convicted, his maximum penalty under 8 U.S.C. § 1325, would be greater because the conviction on Count III was not vacated. Since he cannot lawfully enter the United States in any event, and will be subject to numerous criminal penalties if he does, the Government submits that this highly speculative and conjectural possibility of what may happen, along with other consequences, if Budhu once again violates the law is simply not the kind of collateral consequence which the Court should properly consider to invoke the concurrent sentence doctrine. Those cases in which this Court has exercised its discretion to afford appellate review despite concurrent sentences have in virtually every instance involved situations

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* *United States* v. *Beverhoudt*, 438 F.2d 930, 932 (2d Cir. 1971); *Febre*, *supra*; *United States* v. *Barash*, 365 F.2d 395 (2d Cir. 1966); *United States* v. *Hines*, 256 F.2d 561, 563-64 (2d Cir. 1958).

where the "collateral consequences" were immediately felt in the pending case, either by means of a "spillover effect" of the evidence on an improper count, *United States* v. *Adcock*, 447 F.2d 1337, 1339 (2d Cir.), *cert. denied*, 404 U.S. 939 (1971), or impact on the sentence, *see United States* v. *Sperling*, 506 F.2d 1323, 1342 (2d Cir. 1974), *cert. denied*, 420 U.S. 962 (1975). *But see United States* v. *Beverhoudt*, 438 F.2d 930 (2d Cir. 1971). Particularly in view of the imposition of the absolute minimum sentence on Budhu and his absence from the United States, no such immediate consequences are even possible here.

Finally, one issue which appellant raises on this appeal is of Constitutional dimension, namely, that Congress could not constitutionally lay venue for violations of 8 U.S.C. § 1325 in the district of arrest. The federal courts are traditionally reluctant to reach Constitutional issues unnecessarily. *See Sanks* v. *Georgia*, 401 U.S. 144 (1971); *Rescue Army* v. *Municipal Court of Los Angeles*, 331 U.S. 549 (1947); *Ashwander* v. *Valley Authority*, 297 U.S. 288 (1936) (Brandeis, J. concurring). In view of the complete absence of prejudice to appellant resulting from refusal to review his conviction on Count III, and in particular in view of the fact that Budhu has already been deported from the United States and in all likelihood will not even be aware of a reversal, this Court should not take this opportunity to reach a potentially difficult—and totally unnecessary—question of constitutional law. This established principle requires invoking the concurrent sentence doctrine in the instant case.

POINT II

The evidence was sufficient to sustain a conviction on Count III of the indictment.

In Count III, Budhu was charged with entry into the United States at a place "other than as designated by I.N.S. officials." The evidence at trial not only showed Budhu's presence in the Southern District of New York, but also showed that I.N.S. maintains records of all persons * who enter the United States at places "as designated" by I.N.S. officials, and further showed that after thorough search, I.N.S. could find no records of lawful entry by Budhu. Budhu presented no contrary evidence. The Government's evidence was ample for the jury properly to infer that Budhu had entered at a place "other than as designated" by I.N.S. officials, since that was the only possible remaining explanation for his presence in the United States.

It is abundantly clear from the language of the statute that Congress intended that aliens be prosecutable whenever they enter the country without complying with I.N.S. regulations concerning the time and place of entry. This is, indeed, part of the comprehensive network of regulatory provisions enacted by Congress in accordance with its plenary power over the admission of aliens, which include equally comprehensive record keeping procedures. (See Point III, *infra*).

It is also clear that in many, if not most cases, aliens enter at some unknown place on the border, "other than

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* The single exception is for Canadian and Mexican citizens entering with border crossing cards for one day, within 25 miles of the border. Budhu, according to the evidence, was a citizen of Guyana, and therefore could not have entered under those exceptional provisions.

as designated," proceed promptly to another, perhaps interior, district, where at some later point they may be detected and arrested. Unless the defendant then confesses, the Government is wholly unable to establish the precise point at which the alien has entered, and can establish a violation of 8 U.S.C. § 1325(1) only as it has in this case, that is, by establishing the absence of routine records of the alien's entry "as designated."

It follows that if this regulatory provision is to have any force and effect, proof must lie in the manner provided in this case.

Appellant cites but one case, clearly distinguishable, for his proposition that the government must establish by affirmative evidence the point at which a defendant enters the country, in order to prove a violation of 8 U.S.C. § 1325(1). *United States* v. *Doyle*, 181 F.2d 479 (2d Cir. 1950).* In that case, the defendant had been temporarily excluded by I.N.S. officials at the Canadian border. He was charged with violation of another clause of the section (now 8 U.S.C. § 1325(3)), that provides the far more specific offense of "obtaining entry to the United States by a wilfully false or misleading representation. . ." The sole proof of that charge, beyond evidence that he had been denied entry at one border point, was that he had later been found in the United States. The Court found that evidence insufficient to support conviction of the offense charged.

Here, by contrast, the Grand Jury did not charge false and misleading representation, which must as a matter of logic be a representation *to someone*, presumably an I.N.S. official who could testify. Rather, the

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* Although that decision preceded the enactment of 8 U.S.C. § 1325, the statute to which it referred did contain language and terms identical to those at issue here.

charge was simply entry "other than as designated," a much broader term. Evidence was presented concerning the records which are made and maintained by I.N.S. when aliens enter at places "as designated" by I.N.S. officials. Additional evidence showed that there was no such I.N.S. record of Budhu's entry, and that records of such lawful entry would of necessity have been kept. From this, together with abundant evidence of his living and working in New York, the jury could infer his entry at a place "other than as designated", an inference far different from that condemned in *Doyle, supra.*

POINT III

The provision in 8 U.S.C. § 1329 that venue of violations of 8 U.S.C. § 1325 may be in the district in which the defendant was arrested is constitutional.

Budhu admits that 8 U.S.C. Section 1329 confers venue on the Southern District of New York, since Budhu was arrested in that District.* He argues, however, that

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* Title 8, United States Code, Section 1329, provides as follows:

> The district courts of the United States shall have jurisdiction of all causes, civil and criminal, arising under any of the provisions of this subchapter. It shall be the duty of the United States attorney of the proper district to prosecute every such suit when brought by the United States. Notwithstanding any other law, such prosecutions or suits may be instituted at any place in the United States at which the violation may occur or at which the person charged with a violation under section 1325 or 1326 of this title may be apprehended. No suit or proceeding for a violation of any of the provisions of this subchapter shall be settled, compromised, or discontinued without the consent of the court in which it is pending and any such settlement, compromise, or discontinuance shall be entered of record with the reasons therefor.

Congress could not constitutionally provide that venue of an offense under 8 U.S.C. § 1325 shall lie in the district of the defendant's arrest, since the Sixth Amendment to the Constitution restricts venue in criminal cases to the place where the crime was committed.* In view of Congress' plenary power to regulate all matters relating to aliens and the manifest impossibility in most cases of proving the place of entry sufficiently to establish venue in that district, it is clear that this provision does not violate the Constitution.

The United States Supreme Court has consistently adopted the proposition that Congress is vested with plenary power to make rules for the admission of aliens, and that the exercise of this congressional power will not be disturbed by the judicial branch of the Government. See *Kleindienst* v. *Mandel*, 408 U.S. 753, 766 (1972); *Harisiades* v. *Shaughnessy*, 342 U.S. 580, 596-597 (1952) (Frankfurter, *J.*, concurring); *The Chinese Exclusion Case*, 130 U.S. 581 (1889); *Guan Chow Tok* v. *Immigration and Naturalization Service*, Dkt. No. 75-4229 (2d Cir. July 8, 1976). The broad and exclusive power has been described numerous times by the Court. As Mr. Justice Frankfurter stated in *Galvan* v. *Press*, 347 U.S. 522 (1954):

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* The Sixth Amendment provides in pertinent part as follows:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law . . . .

In addition, Article III, Section 2 of the Constitution provides:

> The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

> Policies pertaining to the entry of aliens . . . are peculiarly concerned with the political conduct of government . . . that the formulation of these policies is entrusted exclusively to Congress has become as firmly embedded in the legislative and judicial tissues of our body politic as any aspect of our government.

Similarly, in *Harisiades* v. *Shaughnessy*, *supra*, at 596-597, Mr. Justice Frankfurter, in a concurring opinion, further described the plenary power of Congress:

> The conditions for the entry of every alien, the particular classes of aliens that shall be denied entry altogether, the basis for determining such classification, the right to terminate hospitality to aliens, the grounds on which such determination shall be based, have been recognized as matters solely for the responsibility of the Congress and *wholly outside the power of this Court to control.* (Emphasis added.)

Nor have these earlier pronouncements lost their validity. In *Kleindienst* v. *Mandel*, *supra*, the Supreme Court reaffirmed its earlier language and cited with approval the following language of the first Mr. Justice Harlan in *Lem Moon Sing* v. *United States*, 158 U.S. 538, 547 (1895):

> The power of Congress to exclude aliens altogether from the United States, or to prescribe the terms upon which they may come to this country, and to have its declared policy in that regard enforced exclusively through executive officers, without judicial intervention, is settled by our previous adjudications.

Mr. Justice Blackmun, for the Court, referred to this plenary Congressional power over the admission of aliens

as a "power to be exercised exclusively by the political branches of government" and further:

> . . . the Court's reaffirmations of this principle have been legion. [Footnote citing cases omitted]. The Court without exception has sustained Congress' "plenary power to make rules for the admission of aliens and to exclude those who possess those characteristics which Congress has forbidden" . . . "Over no conceivable subject is the legislative power of Congress more complete than it is over" the admission of aliens.

408 U.S. 765-766. See also *Pelaez* v. *Immigration and Naturalization Service*, 513 F.2d 303, 305 (5th Cir. 1975), *cert. denied*, — U.S. —. *Hitai* v. *Immigration and Naturalization Service*, 343 F.2d 466 (2d Cir.), *cert. denied*, 382 U.S. 816 (1965); Gordon and Rosenfeld, *Immigration Law and Procedure*, Section 2.2. Indeed, Gordon and Rosenfeld comment that "no successful challenge has ever been made to any exercise of legislative power in the field." *Id.* at § 2.2, p. 2-13. This principle applies even where the issues raised are constitutional in scope. *See, Hitai, supra; Guan Chow Tok, supra; Kleindienst* v. *Mandel, supra.*

Since Congress possesses such plenary power to regulate the admission and exclusion of aliens, even where the exercise of that power appears arbitrary or would violate Constitutional provisions if similarly applied to citizens, Congress must also possess authority to regulate the manner and procedures governing violations of those rules, and, *a fortiori*, to determine where such offenses may be prosecuted.

In the instant case, Congress determined that effective enforcement of 8 U.S.C. § 1325 requires power to prosecute aliens for its violation wherever they might be ar-

rested. This venue provisions was specifically enacted in 1952 at the request of I.N.S. *See United States* v. *Cores*, 356 U.S. 405, 408 n.6 (1957). The reasons for this amendment are obvious. Unless by some chance the defendant confessed or the government came into possession of some extrinsic evidence to establish the actual place of entry—and by the secretive nature of the crime itself, this is highly unlikely—those numerous aliens who enter illegally and secretly, without complying with I.N.S. regulations pertaining to time and place of entry, could never be prosecuted. Furthermore, while the crime is technically complete upon the initial entry into the country, the offense is essentially a continuing one since the obvious evil the law was designed to confront was not the mere fact of illegal entry but the presence of the alien within the country. The economic, social and political problems created by the presence in this country of aliens who have entered "at a time or place other than as designated" accompany those aliens no matter where they travel after their initial entry. Accordingly, Congress' decision to lay venue at the place of arrest is utterly reasonable, and falls within its plenary power to regulate the admission and exclusion of aliens.

Of course, 8 U.S.C. § 1329 also confers venue in the state where the offense was committed. When the exact point at which the alien entered the country is known, it may well, of course, be more appropriate to try him in that district, or a defendant may move to transfer venue to that district. Where it is not known, however, Congress should not be deprived of its authority to provide for criminal prosecutions of violators of 8 U.S.C. § 1325(1).

Furthermore, the articulated policy underlying the venue requirements in the Constitution does not apply to § 1325 defendants in general, or to this defendant in

particular. Courts have stated that the venue requirements rest on the policy that a person should be tried in the place where the crime was committed so that he may marshall resources, including witnesses, for his defense. *Travis* v. *United States*, 364 U.S. 631, 634 (1960); *United States* v. *Cores*, 356 U.S. 405, 407 (1958); *United States* v. *Johnson*, 323 U.S. 273, 275 (1944); *United States* v. *Fernandez*, 480 F.2d 726, 730-731 (2d Cir., 1973); *United* v. *Bithoney*, 472 F.2d 16, 22-23 (2d Cir.), *cert. denied*, 412 U.S. 938 (1973); *United States* v. *Jackson*, 482 F.2d 1167, 1178 (10th Cir., 1973), *cert. denied*, 414 U.S. 1159 (1974). Thus, the Constitutional provisions are designed to avoid "the unfairness and hardship to which trial in an environment alien to the accused exposes him." *United States* v. *Johnson*, *supra*, at 275. In a situation where, as here, it can be shown that the defendant has entered at a place "other than as designated" by I.N.S. officials, but it cannot be established at exactly which point he entered, obviously there *are* no available witnesses in that locality. And an alien who has entered the country improperly at an unknown point and travelled to another district where he is arrested by definition lacks those ties to the district of his entry which might otherwise favor his trial there.*

Therefore, in view of the alien's unique status in this country, Congress' plenary and unparalleled authority to govern the conditions of his admission, the obvious rational basis for providing venue of trial for violations of 8 U.S.C. § 1325 in the place of arrest, and the absence in such a case of the countervailing policy factors that un-

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* For example, while Budhu contends at length that he has suffered from being tried in an improper district, he does not allege a single element of prejudice resulting from this fact, nor, indeed, does he contend that proper venue lay in any particular district.

derlie the Constitution's venue provisions, the constitutionality of 8 U.S.C. § 1329, as it provides for venue in the district of arrest, should be upheld.

CONCLUSION

Budhu's conviction on Count III should be affirmed.

Respectfully submitted,

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Form 279 - Affidavit of Service by Mail

AFFIDAVIT OF MAILING

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

CONSTANCE CUSHMAN being duly sworn, deposes and says that he is employed in the office of the United States Attorney for the Southern District of New York.

That on the 23 day of July, 1976 he served a copy of the within by placing the same in a properly postpaid franked envelope addressed:

William J. Gallagher, Esq.
The Legal Aid Society
Federal Defender Services Unit
Rm. 509, United States Court House
Foley Square, New York, 10007

And deponent further says that he sealed the said envelope and placed the same in the mail chute drop for mailing at One St. Andrew's Plaza, Borough of Manhattan, City of New York.

Constance Cushman

CONSTANCE CUSHMAN
Assistant United States Attorney

Sworn to before me this

23rd day of July, 1976

Maria A. Morales

MARIA A. MORALES
NOTARY PUBLIC, State of New York
No. 31 - 4521851
Qualified in New York County
Term Expires March 30, 1978